

Notice of Allowability	Application No.	Applicant(s)	
	10/801,511	PERDICES ET AL.	
	Examiner	Art Unit	
	Kellette Gale	1621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to ____.
2. ☒ The allowed claim(s) is/are 1-6.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☒ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>2</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date ____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other ____. |

Ballesteros et al, "Ethanol Production from Olive Oil Extraction Residue Pretreated with Hot Water," Human Press, Spring 2002; 98-100, pgs. 717-732 .

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

Applicant's representative, attorney John McMahon, informed the Examiner that the prior art reference in which the rejections were based on was applicant's work with a 102(a) date. After further examination, the Examiner agreed and was not able to find any other relevant art on the claimed material. As a result, the rejection was withdrawn and allowance is now in order.

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for the following Examiner's Amendment to the claims was given in a telephone interview with John McMahon on March 30, 2006.

The application has been amended as follows:

1. In claim 1, delete the word "process" and replace with the phrase, "A process".
2. In claims 2-5, delete the word "process" and replace with the phrase, "The process".
3. Please add claim 6 to read, "The process according to claim 4, characterized in that the phenolic compounds extracted are tyrosol and hydroxytyrosol".
4. Please delete the number "4" in claim 5 and replace with the number "6".

Authorization for the following Examiner's Amendment to the specification was given in a telephone interview with John McMahon on March 31, 2006.

The application has been amended as follows:

A new first paragraph to the specification has been added to read, "This application is a 371 of ES/2003/000085, filed February 20, 2003."

Allowable Subject Matter

The following is an examiner's statement of reasons for allowance: Claims 1-5 are allowed because prior art fails to teach or disclose a process to extract phenolic compounds from a residual plant material using a hydrothermal treatment whereas the process does not use solvents and/or acids.

The closest prior art, Alonso-Salces et al (J. Chromatography A, 9 Nov 2001, Vol. 933, pgs.37-43), teach Pressurized Liquid Extraction (PLE) for the determination of polyphenols in apple wherein methanol is used as a solvent and the process is done at high pressures (500-3000 p.s.i.) and temperatures above normal boiling point (40-200°C). Also, compressed gas is used to purge the sample extract into a collection vial. Please see paragraph 4 of the Introduction.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kellette Gale whose telephone number is (571) 272-8038. The examiner can normally be reached on M-F (6:30am-3:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on (571) 272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kellette Gale
Patent Examiner
Technology Center 1600

April 6, 2006

A handwritten signature in black ink, appearing to read "Samuel Barts", written over a horizontal line.

Samuel Barts, Ph.D.
Primary Patent Examiner
Technology Center 1600